

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:05CR173
	§	
TERVARIAN DANIEL LEWIS (13)	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 5, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Jay Combs.

On April 18, 2006, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 60 months imprisonment followed by a four-year term of supervised release for the offense of Possession with Intent to Distribute Cocaine Base. Defendant began his term of supervision on June 19, 2009. On November 30, 2012, the case was transferred to the Honorable Marcia A. Crone, United States District Judge.

On November 30, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 895). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2) Defendant shall refrain from any unlawful use of a controlled substance.

Defendant shall submit to one drug test within 15 days of release from imprisonment or at least two periodic drug tests thereafter, as directed by the Court; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (4) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) As previously reported to the Court, on January 9, 2012, Defendant was issued citations for Open Container and No Driver's License by a Texas Department of Public Safety Trooper. He was ordered to pay a fine of \$125.00 on each case, and the fines remain unpaid as of November 30, 2012; (2) On February 2, March 7, August 21, September 11, September 24, October 17, October 29, November 5, and November 13, 2012, Defendant submitted urine specimens that tested positive for marijuana. On June 18, 2012, and October 17, 2012, Defendant submitted urine specimens that tested positive for cocaine. Additionally, during an office visit on August 21, 2012, Defendant admitted to using Ecstasy on August 9, 2012. On all of the aforementioned instances of drug usage, Defendant either admitted usage and/or the urine specimens were confirmed positive by Alere Toxicology Services; and (4) Defendant failed to report for drug testing as directed on August 21, September 13, September 18, October 9, October 22, and November 12, 2012. He also failed to report for a drug treatment session at Bob Alterman, LCDC, Plano, TX, on September 4, 2012.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation

of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

**RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 5, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facility located in Seagoville, Texas, if appropriate.

**SIGNED this 19th day of February, 2013.**

  
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DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE